

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 4636 of 1998

For Approval and Signature:

Hon'ble MR.JUSTICE M.S.PARIKH

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

KUSUMBEN TRAMBAKLAL DAVE

Versus

COLLECTOR OF STAMPS (STAMP DUTY)

Appearance:

MS RV ACHARYA for Petitioner

MR PS PATEL & Mr KT Dave AGP for Mr.H.M.Bhagat for Respondents.

CORAM : MR.JUSTICE M.S.PARIKH

Date of decision: 15/10/98

ORAL JUDGEMENT

Rule. Service of rule is waived by Mr.K.T.Dave, learned AGP and Mr. P.S.Patel, learned advocate appearing for M/s. H.M.Bhagat & Company for the respondents. Heard. This matter arises from the adjudication with regard to valuation of the property under document No. 2374/92 and consequent increase in the stamp duty payable by the petitioners as also the penalty by virtue of sec. 32-A of the Bombay Stamp Act.It has been the case of the petitioners that the petitioners were not given an opportunity to meet with the report submitted by the concerned authority based on which the decision in question has been rendered by the lower authority. The petitioners have also canvassed a

decision of this court rendered on 6.4.1998 (Coram:M.S.Shah,J.) in special civil application No. 7955 of 1997. On going through the facts set out in the said petition as also the decision which has been canvassed, I am of the opinion that following order is required to be passed in terms of the order passed by this court referred to hereinabove :

Hence, in the facts of the case, the impugned order dated 6.10.95 confirmed by order dated 10.2.98 in appeal is hereby set aside and the matter is remanded to the respondent with a direction to invite the petitioners' attention to the material on the basis of which the respondent No. 1 would propose to assess the value of the property in question and to give to the petitioners an opportunity of meeting with the same. It is clarified that no opinion is expressed by this Court on merits of the matter.

It will be open to the petitioners to make a reference to the Government Resolution dated 29.7.1998 and when the said Government Resolution is canvassed, same shall be considered and the decision shall be taken in accordance with law.

Rule is made absolute accordingly with no order as to cost. DSP.

15.10.1998. (M.S.Parikh,J.)
Vyas